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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re LUIS C., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS C.,

Defendant and Appellant.

A124701

(Solano County
Super. Ct. No. J37506)

Luis C., a minor, appeals from a judgment of the juvenile court entered after his plea of guilty to the misdemeanor offense of assault by means likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1)) on the basis of his admission of said offense as part of a negotiated disposition. His court-appointed attorney has filed a brief raising no legal issues and asking this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.)

PROCEEDINGS BELOW

On March 13, 2009, the Solano County District Attorney filed a juvenile wardship petition against appellant charging one felony count of assault by means likely to produce great bodily injury. (Pen. Code, § 245, subd. (a)(1).) At the time the petition was filed, appellant was already a ward of the court. Two weeks later, after receiving the admonitions required by *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969)

1 Cal.3d 122,¹ appellant waived the rights protected by those opinions as part of a negotiated disposition in which, in exchange for appellant's admission of the charged assault, the district attorney agreed to reduce that offense from a felony to a misdemeanor. (See Pen. Code, § 17, subd. (b)(4).) Based on appellant's history of delinquency—which included sustained petitions for battery, receiving stolen property, burglary, driving under the influence, and possession of a firearm—the court advised appellant that he faced a maximum term of confinement of eight years ten months in the Division of Juvenile Justice (DJJ) of the Department of Corrections and Rehabilitation (formerly known as the California Youth Authority or CYA).

Citing appellant's past experience on probation, the nature of his prior offenses and the seriousness of the present offense, and also his need for educational, counseling, and vocational programs, the probation report recommended appellant be placed in the DJJ at the Fouts Youth Facility (Fouts). Over the objection of defense counsel and appellant's parents, the court adopted the recommendation and ordered appellant to participate in a nine-month program at Fouts. The court justified this placement on the unprovoked nature of the present offense and the need for him to complete his high school education. The court set appellant's maximum term of confinement at eight years ten months and awarded him 289 days of credit for time served. The court also imposed a 36-day juvenile hall commitment with 36 days of credit for time served. Additionally, the court ordered appellant to stay away from the victim of the present offense and to write the victim and his own parents a letter of apology. The court imposed a \$50 restitution fine on appellant (Welf. & Inst. Code, § 730.6) and ordered appellant's parents to pay the county \$500 to reimburse it for the cost of the legal services rendered appellant. (Welf. & Inst. Code, §§ 903.1, 903.45.)

Timely notice of appeal was filed on April 22, 2009.

¹ “The *Boykin-Tahl* protections afforded an accused, other than the right of trial by jury, are available to juveniles charged pursuant to the Juvenile Court Law, as proceedings thereunder may result in substantial deprivation of liberty analogous to incarceration for crime.” (*In re Ronald E.* (1977) 19 Cal.3d 315, 321, abrogated on other grounds in *People v. Howard* (1992) 1 Cal.4th 1132, 1174-1178.)

On July 17, 2009, appellant's present counsel sent the juvenile court a letter requesting that the maximum term of confinement imposed on appellant be reduced to eight years four months. After a new dispositional hearing was conducted on August 5, 2009, the court adjusted the maximum period of confinement to that requested by appellant's counsel.

FACTS

On March 12, 2009, while appellant was having breakfast at a facility run by the New Foundations Program, Luis stood up, emptied his tray, and asked a staff member for permission to give his juice to a minor seated near the victim, K.W. When the request was approved, appellant put his juice on the table and without warning began to hit K.W. over the head with his tray. He then dropped the tray and grabbed K.W. from behind, hitting him on the head with his fists.

When interviewed by the police, appellant said "[K.W.] was talking 'mess' to everyone that morning" and "was trying to 'mess' with his head." Appellant admitted culpability and expressed remorse. He said he attacked K.W. because he had called him names the night before, and had taken a glass of juice appellant had given another minor in the program.

DISCUSSION

The scope of reviewable issues on appeal after the sustaining of allegations of a petition on the basis of admissions is restricted to matters based on constitutional, jurisdictional, or other grounds going to the legality of the proceedings leading to the admissions; guilt or innocence are not included. (See *People v. DeVaughn* (1977) 18 Cal.3d 889, 895-896.)

Appellant declined to admit any of the allegations in the petition filed against him until after he had been fully advised of and waived his rights to trial and silence, to subpoena witnesses, and to confront witnesses against him. He had also been timely advised that his admissions could result in his placement in a locked facility maintained by DJJ for eight years ten months, which is longer than the period ultimately imposed. Prior to making his admissions, appellant represented that no threats or promises were

made to induce him to admit any charges, except that the single offense charged as a felony would be reduced to a misdemeanor.

The record establishes that appellant's admissions were made freely, voluntarily, and knowingly.

Appellant was at all times represented by competent counsel who protected his rights and interests.

The sentence imposed is authorized by law.

Accordingly, our independent review discloses no arguable issue requiring further briefing.

DISPOSITION

The judgment sustaining the petition and sentence imposed are affirmed.

Kline, P.J.

We concur:

Lambden, J.

Richman, J.